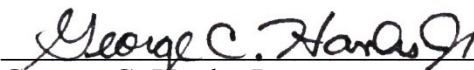


Based on the pleadings, the record and the applicable law, the Court finds that there is no plain error apparent from the face of the record. Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

- (1) Judge Edison's Memorandum and Recommendation (Dkt. 21) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- (2) Plaintiff, Kenneth Wittneben's Motion for Summary Judgment (Dkt. 15) is **GRANTED**;
- (3) Defendant's Cross Motion for Summary Judgment (Dkt. 17) is **DENIED**; and
- (4) The decision of the Administrative Law Judge is **REVERSED** and **REMANDED**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 8th day of April, 2019.



George C. Hanks Jr.
United States District Judge